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## Kagan: I'm just one overdue, unfortunate accident away from greatness

How long must I watch and wait!?!?

By General Kagan

Harbus Law Citizen

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Nine of them. Nine Justices. And now all that remains for all my plans to be fulfilled is for any one of those nine to have some unfortunate, random thing happen, for some minor illness to worsen inexplicably, and I will take my place among the eight that remain.

All it would take is the flutter of a pulmonary valve, the clogging of an artery, or the rupture of tiny blood vessel, causing a debilitating stroke. Any of these must be routine medical events, seen in any hospital every day of the week. And how many fatty meals does it take, how many salty french fries, how many tainted glasses of water before each of these events becomes a statistical inevitability? What sort of medical miracle are these people?

But the absurdity only ripens the longer one considers the situation, for any slip, any crash would be enough to take one of these illuminati from their post and into the halls of history. A dropped bar of soap, picked up in haste, leaves a spot of residue that causes a foot to slip, but there's no handrail to save you, Clarence! A stale sacramental wafer, hastily dipped into the holy wine by the priest in communion, is swallowed a little too quickly, lodging at the epiglottis. Say your prayers, Samuel! Driving to a great-grand-child's first communion, a nail in the road punctures a tire, and the car spins to the right and is crushed by a tractor trailer. Addio, Antonin!

And yet day in and day out they hum along in their steady routine, avoiding accidents, eschewing risk factors, and imbibing their miracle drugs to stave off that final sickness. But I can see it in their faces. Another wrinkle under the eye. A new liver spot. An enlarged goiter.

An unusually pallid complexion. All these signs reveal the inexorable creep of age, the sure exhaustion of youth and vitality.

And ever since Souter left for a simple life in the hills of New Hampshire, there has been an obvious discomfort among those remaining, those who realize that they are letting their last days be sapped by an oversized vanity that can do no more than extend the tenure, carve another notch in the post of history, and sign off on another opinion, another page in the Reporter.

Why do they persist? What is the irrational impulse that keeps these jurists going? I can understand Roberts and Alito, and I envy Sotomayor. I might not shed a tear if it were one of them who was laid low first, but I would certainly understand their resoluteness, their tenacity. Even Thomas, appointed so young, has barely just hit his stride. He won't be as old as Stevens is now until 2038. But how can these aging relics continue to trudge along so stubbornly against the winds of fate? John Paul, Ruth, Antonin, Anthony, and even dear Stephen are all already in excess of the average life expectancy. Don't they know that they are tempting fate with each piercing interrogatory and each impassioned dissent?

I can only suppose that they, like myself, were one day counting the days from the other side of the line, biding their time until some other old fart would kick the bucket. And I suppose that I too will some day be in those robes, looking out at a rising pretender to my seat and despising each concerned look, every quickening of the pulse at a fit of coughing. From those lofty heights, with no more climbing the ladder of overachievement and an army of envious idolaters hemming you in, the next step can only take you downward. And like Wood, Garland, Sullivan and the rest, I will be right here, waiting for that moment.

*Elena Kagan is former Dean of Harvard Law School and currently serves as Solicitor General of the United States.*